

**IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF MISSOURI**

SURAKA YAHAYA AMINU, A# 219 573
388,

1902 Valley Park Rd
Fenton, MO 63026,

Plaintiff,

v.

UNITED STATES CITIZENSHIP AND
IMMIGRATION SERVICES,

Serve: U.S. Citizenship & Immigration
Services
5900 Capital Gateway Dr
Camp Springs, MD 20588

UR MENDOZA JADDOU, Director of the
United States Citizenship and Immigration
Services,

Serve: U.S. Citizenship & Immigration
Services
5900 Capital Gateway Dr
Camp Springs, MD 20588

and,

ANN MARIE JORDAN-STARKS, Director of
the St Louis Field Office of the U.S. Citizenship
and Immigration Services,

Serve: Ann Marie Jordan-Starks
USCIS
1222 Spruce Street, Room 2205
St. Louis, MO 63103

Defendants.

Case No. 4:22-cv-111

COMPLAINT IN THE NATURE OF MANDAMUS ARISING FROM DEFENDANTS'
REFUSAL TO ADJUDICATE PLAINTIFF'S I-130 PETITION, I-485 APPLICATION TO
ADJUST STATUS AND I-765 APPLICATION FOR EMPLOYMENT
AUTHORIZATION

Plaintiff Suraka Yahaya Aminu respectfully requests a hearing before this Honorable Court to make a determination on Plaintiff's I-130 petition, I-485 application to adjust status and I-765 application for employment authorization, or alternatively requesting that this Honorable Court issue a writ of mandamus compelling Defendants to adjudicate Plaintiff's long-delayed I-130 Petition, I-485 application to adjust status and I-765 application for employment authorization.

PARTIES

1. Plaintiff Suraka Yahaya Aminu is a citizen of Nigeria.
2. Suraka Yahaya Aminu is married to a U.S. citizen named Lensa Jawhar.
3. Suraka Yahaya Aminu resides in Fenton, MO.
4. Lensa Jawhar filed an I-130 Petition for Alien Relative on behalf of the Plaintiff on or about August 10, 2020. The Receipt Number is MSC2091549727. The couple filed an accompanying I-485 Application for Adjustment of Status on Plaintiff's behalf on that same date as well. Defendants assigned Receipt Number MSC2091549726 to Plaintiff's case.
5. On January 25, 2021, Suraka Yahaya Aminu received work authorization in the United States after filing a proper I-765 Application for Employment Authorization.
6. On October 26, 2021, Plaintiff filed a timely I-765 application for employment authorization.
7. Plaintiff's Employment Authorization expired on January 24, 2022. To date, Plaintiff has not received his EAD renewal and will be unable to work legally in the U.S. as of

July 23, 2022.

8. USCIS completed the fingerprinting and photographing of Suraka Yahaya Aminu as part of the processing of the pending applications.

9. Defendants conducted an interview on the couple's I-130 application and the corresponding I-485 application for adjustment of status on March 19, 2021.

10. Since then, the Defendants have taken no action on the pending applications.

11. Since Suraka Yahaya Aminu and Lensa Jawhar filed the applications with USCIS, they have made repeated requests to have their case finally adjudicated.

12. Despite numerous calls to USCIS and their attempts to prompt movement on the case, Suraka Yahaya Aminu's applications have remained pending far longer than is reasonable.

13. USCIS has refused to adjudicate Suraka Yahaya Aminu's applications in accordance with applicable legal criteria.

14. Plaintiff brings this action to compel the USCIS to finally adjudicate the pending applications as required by law.

15. Defendant United States Citizenship and Immigration Services (hereinafter sometimes referred to as "the USCIS") is the component of the DHS that is responsible for processing I-130 petitions, I-485 adjustment of status applications and I-765 applications.

16. Defendant Ur Mendoza Jaddou is the Director of the USCIS, is the highest-ranking official within the USCIS. Jaddou is responsible for the implementation of the INA and for ensuring compliance with all applicable federal laws, including the APA. Jaddou is sued in an official capacity as an agent of the government of the United States.

17. Defendant Ann Marie Jordan-Starks is the Director of the Saint Louis Field Office of the United States Citizenship and Immigration Services, and is sued only in an official capacity, as well as any successors and assigns. The Saint Louis Field Office has jurisdiction

over applications for adjustment of status for immigrants in Fenton, MO, where Plaintiff resides. Jordan-Starks is responsible for the implantation of the INA and for ensuring compliance with all applicable federal laws, including the APA. Ann Marie Jordan-Starks is sued in an official capacity as an agent of the government of the United States.

JURISDICTION AND VENUE

18. This Honorable Court has federal question jurisdiction over this cause pursuant to 28 U.S.C. § 1331, as it raises claims under the Constitution of the United States, the INA, 8 U.S.C. § 1101 et seq., and the APA, 5 U.S.C. § 701 et seq, in conjunction with the Mandamus Act, 28 USC § 1361.

19. Venue is proper pursuant to 28 U.S.C. § 1391(e)(1) because (1) Defendants are agencies of the United States or officers or employees thereof acting in their official capacity or under color of legal authority; (2) no real property is involved in this action, and; (3) the Defendants all maintain offices within this district.

FIRST CLAIM FOR RELIEF
(Agency Action Unlawfully Withheld and Unreasonably Delayed)

For the first claim for relief against all Defendants, Plaintiff alleges and state as follows:

20. Plaintiff realleges and incorporate by reference the foregoing paragraphs as though fully set out herein.

21. The APA requires that “[w]ith due regard for the convenience and necessity of the parties or their representatives and within a reasonable time, each agency shall proceed to conclude a matter presented to it.” 5 U.S.C. § 555(b). Section 555(b) creates a non-discretionary duty to conclude agency matters. *Litton Microwave Cooking Prods. v. NLRB*, 949 F.2d 249, 253 (8th Cir. 1991). A violation of this duty is a sufficient basis for mandamus relief.

22. The APA permits this Honorable Court to “compel agency action unlawfully withheld or unreasonably delayed.” 5 U.S.C. § 706(1).

23. Plaintiff alleges that the application has been in administrative processing beyond a reasonable time period for completing administrative processing of the adjustment of status application.

24. The combined delay and failure to act on Suraka Yahaya Aminu’s I-130 petition, I-485 adjustment of status application and I-765 application is attributable to the failure of Defendants to adhere to their legal duty to avoid unreasonable delays under the INA and the applicable rules and regulations.

25. There are no alternative adequate or reasonable forms of relief available to Plaintiff.

26. Plaintiff has exhausted all available administrative remedies in pursuit of a resolution of this matter, including repeatedly requesting the processing of the case with the USCIS.

SECOND CLAIM FOR RELIEF
(Violation of Right to Due Process of Law)

For the second claim for relief against all Defendants, Plaintiff alleges and states as follows:

27. Plaintiff realleges and incorporates by reference the foregoing paragraphs as though fully set out herein.

28. The right to fundamental fairness in administrative adjudication is protected by the Due Process Clause of the Fifth Amendment to the United States Constitution. Plaintiff may seek redress in this Court for Defendants’ combined failures to provide a reasonable and just

framework of adjudication in accordance with applicable law.

29. The combined delay and failure to act by Defendants has violated the due process rights of Plaintiff.

30. The combined delay and failure to act by Defendants has irrevocably harmed Plaintiff in the denial of an opportunity to claim lawful permanent resident status, as well as the ability to sponsor family members for residence in the U.S. and in various other ways.

REQUEST FOR RELIEF

WHEREFORE, Plaintiff Suraka Yahaya Aminu requests the following relief:

1. That this Honorable Court assume jurisdiction over this action;
2. That this Honorable Court issue a writ of mandamus compelling Defendants to promptly complete all processing of Suraka Yahaya Aminu's I-130 petition, I-485 application to adjust status and I-765 application within sixty days;
3. That this Honorable Court take jurisdiction of this matter and adjudicate Suraka Yahaya Aminu's I-130 Petition, I-485 application to adjust status and I-765 application pursuant to this Court's declaratory judgment authority;
4. That this Honorable Court issue a writ of mandamus compelling Defendants to issue a green card to Suraka Yahaya Aminu;
5. That this Honorable Court issue a writ of mandamus compelling Defendants to explain to Plaintiff the cause and nature of the delay and inform Plaintiff of any action they may take to accelerate processing of the application to adjust status;
6. Attorney's fees, legal interests, and costs expended herein, pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412;
7. Such other and further relief as this Honorable Court may deem just and proper.

RESPECTFULLY SUBMITTED
January 28, 2022

/s/ James O. Hacking, III

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